



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/519,211

12/27/2004

Alfredo Pegorado

2541-1032

7292

466 7590 02/08/2008

YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER

BUCKLE JR, JAMES J

ART UNIT

PAPER NUMBER

4155

MAIL DATE

DELIVERY MODE

02/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



<b>Office Action Summary</b>	<b>Application No.</b> 10/519,211	<b>Applicant(s)</b> PEGORADO, ALFREDO	
	<b>Examiner</b> JAMES J. BUCKLE JR	<b>Art Unit</b> 4155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/27/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/27/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12—20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, the phrase "or other materials" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or other materials"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

3. Claim 12 recites the limitations "the cross-pieces" and "the uprights" in lines 8 and 9 of claim 12 respectively. There is insufficient antecedent basis for these limitations in the claim. This list should not be considered complete or exhaustive and applicant should correct any outstanding applicable errors.

Any claim not specifically addressed has been rejected per the above or as dependent from a rejected base claim. In light of the rejections above, the claims will be further treated on the merit ***as best understood***.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35



Art Unit: 4155

U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

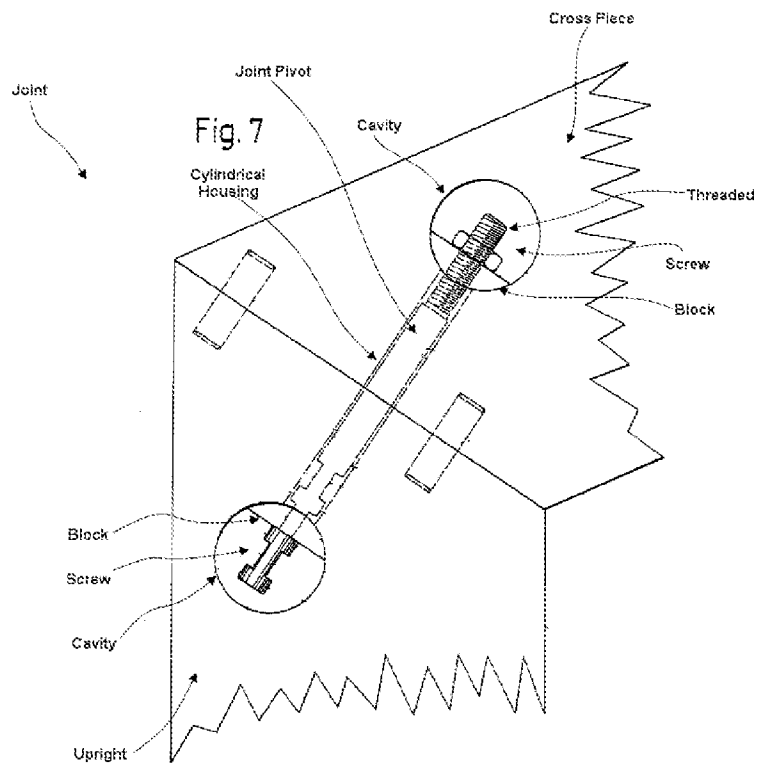
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mangold (U.S Patent No. 5,934,819), *as best understood*.
6. Regarding claims 18 and 19, Mangold discloses a joint (**Joint**) comprising “at least one joint pivot (**Joint Pivot**) having a tension-rod function, housed snugly and coaxially inside a cylindrical housing (**Cylindrical Housing**) predisposed in a reciprocally-coupled cross-piece (**Cross Piece**) and an upright (**Upright**) ; at least one block (**Block**)...”. Joint, which is a “mean associable to the ends of the joint pivot for realising the tensioning of the joint pivot”, further comprising screws (Claims 18 and 19, (**Screw**)). A joint having cavities (**Cavity**) in the cross-piece and in the upright is also disclosed (Examiner amended Fig.7). The examiner notes that the claim consists of intended use language or claim language that does not limit the claim to a particular structure.



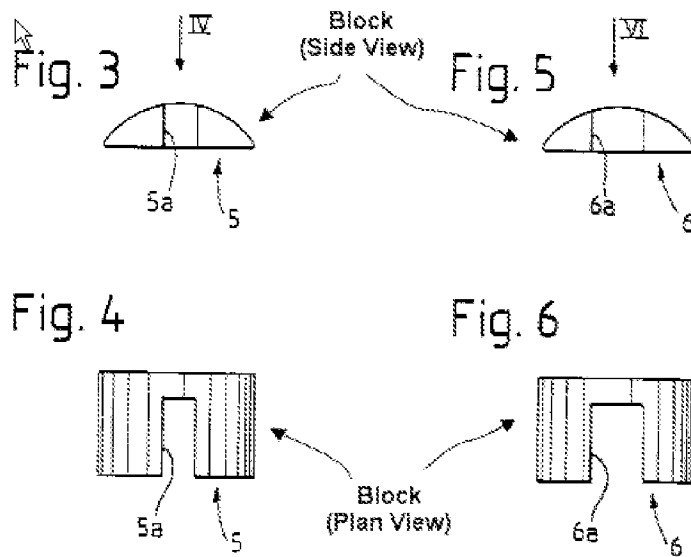
Art Unit: 4155



Reproduced from U.S. Patent No. 5,834,819 (Examiner Amended)

7. Regarding claim 20, Mangold discloses a block that has a "straight circular cylindrical surface" ("Block", Examiner amended Fig.3-6 and Fig.7).





Reproduced from U.S. Patent No. 5,934,819 (Examiner Amended)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.



Art Unit: 4155

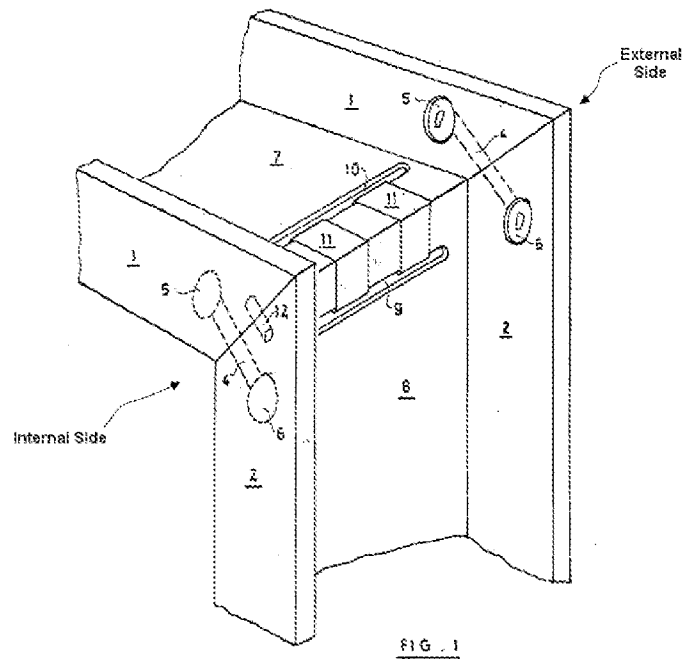
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
10. Claim 12-13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunter (DE4031537) in view of applicant's Reiss (DE7000649) and Mangold (U.S. Patent No. 5,934,819),  
***as best understood.***
11. In regards to claims 16 and 17, Gunter discloses a wooden frame (Examiner amended, Fig.1) that comprises of cross-pieces **(1)**, uprights **(2)** and metal corner brackets **(11)** that are positioned at the corner of the frame. Gunter further discloses housings **(4-6)** with linear transversal profiles in both the internal and external side of the frame and a pivot **(4, Fig.2)** obliquely placed in the corner. Gunter does not disclose four corners consisting of brackets, straps, or "other elements" stretched about the frame or the two ends of the pivot, threaded pivots, metal or PVC elements fixed by screws, hinges, seals and "other mechanical components". However, Reiss (as cited by the applicant) teaches that it is known in the art to have metal brackets at the four corners of the frame and a strap that is stretched about the frame to provide a more secure joint added pressure to keep the frame in compression. Reiss further teaches limitations of the frame having screw means in the housing and, hinges, seals and other mechanical components set forth in claim 16 as recited on page 2 in lines 19-27 and page 3, lines 1-7 of the applicant's present application. On the other hand, Mangold teaches that it is known in the art



Art Unit: 4155

- to have a pivot that is threaded to reduce the amount of movement allowed between two components ("Threaded", Examiner amended, Fig.7). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the frames of Gunter with the four corner brackets and strap of Reiss along with the threaded pivot of Mangold to produce a frame that is secure and sound.
12. Rationale: All claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to a skilled artisan at the time the invention was made.
13. The examiner notes that the frame is considered to be both "mobile" when in transport and "fixed" once placed in position. Also, it is considered that the corner brackets are constrained to the pivot which keeps the cross piece and upright intact (claim 17). The examiner further notes that this claim is considered to be a product by process claim due to the limitation "assembled by". Determination of patentability is based on the product itself. See MPEP 2113. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 227 USPQ 964, 966 (Fed. Cir. 1985).





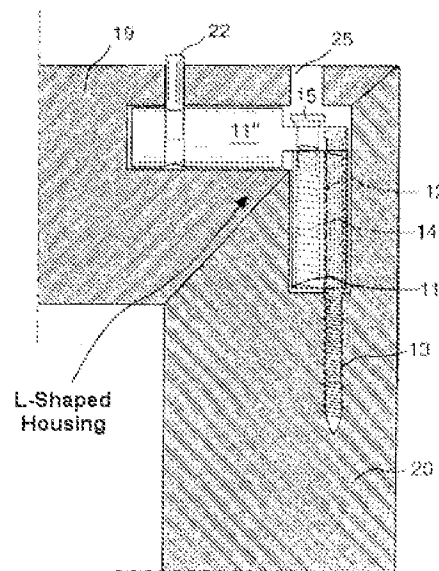
Reproduced from DE4031537 (Examiner Amended)

14. In regard to process claims 12 and 15, as it relates to claim 16, claim 13 as it relates to claim 17, and in light of the structure disclosed by the references, as set forth above, it would have been obvious from knowledge generally available to one of ordinary skill in the art to have a manufacture process to produce an equivalent product. The term "external protection guards", as stated in claim 15, is considered to be the equivalent to the seals taught by Reiss.
15. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gunter (DE4031537) in view of Reiss (DE7000649) and Mangold (U.S. Patent No. 5,934,819) as applied to claims 12-13 and 15-17 above further in view of Ascanio (EP0846831).



Art Unit: 4155

16. In regard to claim 14, Gunter and Reiss discloses transversal housing, but does not disclose the shape as be 'L-shaped". However, Ascanio teaches that is know in the art to have an "L-shaped" housing in a frame as an alternative to better accommodate the fixtures suited to assembly the frame. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the frame of Gunter as modified by Reiss and Mangold with the housing of Ascanio to provide an alternative to manufacture or assemble a frame ("L-Shaped Housing", Examiner amended Fig.8).

**FIG. 8**

Reproduced from EP0846831 (Examiner Amended)

**Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



Art Unit: 4155

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/  
Victor Batson  
Supervisory Patent Examiner  
Art Unit 4155

JJB